

Summary

For the purpose of encouraging local communities and public or private educational institutions to implement prearrest diversion programs that afford certain adults who fulfill specified **behavioral health** intervention and community service obligations the opportunity to avoid an arrest record. This legislation does not mandate that a particular prearrest diversion program for adults be adopted, but finds that the adoption of the model provided in **the following sections** would allow certain adults to avoid an arrest record, while ensuring that those adults receive appropriate intervention and fulfill community service obligations. If a prearrest diversion program is implemented, the program is **required** to share information with other prearrest diversion programs.

Section 1.

Local communities and public or private educational institutions may adopt a **prearrest diversion** program in which:

- (a) Law enforcement officers, at their sole discretion, may issue civil citations to certain adults who commit a qualifying nonviolent misdemeanor offense **listed in Section 2**. A civil citation may be issued only if the adult admits that he or she committed the offense and if the adult has not previously been arrested and has not received an adult civil citation. However, an adult may not be issued a civil citation if the nonviolent misdemeanor offense involves a victim and the victim objects to issuance of the civil citation.
- (b) An adult who receives a civil citation shall report for intake as required by the local prearrest diversion program and shall be provided appropriate assessment, intervention, education, and behavioral health care services. While in the local prearrest diversion program, the adult shall perform community service hours as specified by the **local prearrest diversion** program. The adult shall pay restitution due to the victim as a requirement **of the prearrest diversion program**. If the adult does not successfully complete the prearrest diversion program, the law enforcement agency that issued the civil citation shall criminally charge the adult for the original offense and refer the case to the **appropriate prosecuting agency** to determine if prosecution is appropriate. If the adult successfully completes the program, an arrest record shall not be associated with the offense.

- (c) **A steering committee** shall be created for the prearrest diversion program to develop policies and procedures for the program, including, but not limited to, eligibility criteria, program implementation and operation, and the fee to be paid by adults participating in the program. ~~At a minimum, the steering committee must be composed of representatives of the law enforcement agencies participating in the program, a representative of the program services provider, a public defender or his or her designee, a prosecuting attorney or his or her designee, a clerk of the circuit court or his or her designee, and other interested stakeholders.~~

Section 2. Nonviolent misdemeanor offenses that qualify for a prearrest diversion program include, ~~but are not limited to:~~

- ~~(a) Disorderly conduct~~
~~(b) Petit theft of property valued at less than \$50~~
~~(c) Possession of alcohol by a person younger than 21 years of age~~
~~(d) Possession of 20 grams or less of cannabis in violation~~
~~(e) Selling or providing alcoholic beverages to a minor~~
~~(f) Trespass in a structure or conveyance in violation~~

Section 3.

This section does not preempt a county or municipality from enacting noncriminal sanctions for a violation of an ordinance or other violation, and does not preempt a county, a municipality, or a public or private educational institution from creating its own model for a pre-arrest diversion program for adults

Florida SB 448 sponsored by Sen. Brandes Jan 24, 2017
INTENT.

The Legislature encourages local communities and public or private educational institutions to implement prearrest diversion programs that afford certain adults who fulfill specified intervention and community service obligations the opportunity to avoid an arrest record. The Legislature does not mandate that a particular prearrest diversion program for adults be adopted, but finds that the adoption of the model provided in this section would allow certain adults to avoid an arrest record, while ensuring that those adults receive appropriate intervention and fulfill community service obligations. If a prearrest diversion program is implemented, the program is encouraged to share information with other prearrest diversion programs.

(95% verbatim)

(2) MODEL ADULT CIVIL CITATION PROGRAM.—

Local communities and public or private educational institutions may adopt a program in which:

- (a) Law enforcement officers, at their sole discretion, may issue a civil citation to certain adults who commit a qualifying nonviolent misdemeanor offense selected by the program. A civil citation may be issued only if the adult admits that he or she committed the offense and if the adult has not previously been arrested and has not received an adult civil citation. However, an adult may not be issued a civil citation if the nonviolent misdemeanor offense involves a victim and the victim objects to issuance of the civil citation.
- (b) An adult who receives a civil citation shall report for intake as required by the local prearrest diversion program and shall be provided appropriate assessment, intervention, education, and behavioral health care services by the program. While in the local prearrest diversion program, the adult shall perform community service hours as specified by the program. The adult shall pay restitution due to the victim as a program requirement. If the adult does not successfully complete the prearrest diversion program, the law enforcement agency that issued the civil citation shall criminally charge the adult for the original offense and refer the case to the state attorney to determine if prosecution is appropriate. If the adult successfully completes the program, an arrest record may not be associated with the offense.

(97% verbatim)

(3) Program Development, Implementaion, and Operation.—

Representatives of participating law enforcement agencies, a representative of the program services provider, the public defender, the state attorney, and the clerk of the circuit court shall create the prearrest diversion program and develop its policies and procedures, including, but not limited to, eligibility criteria, program implementation and operation, and the determination of the fee to be paid by adults participating in the program. In developing the policies and procedures for the program, the parties must solicit input from other interested stakeholders. The program may be operated by an entity such as a law enforcement agency, the county or municipality, or another entity selected by the county or municipality. (Sentence rearranged, slight rewording, 44% verbatim)

- (4) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses that qualify the offender for a prearrest diversion program must be selected as part of the program development under subsection (3).

(48% verbatim)

(5) APPLICABILITY.

This section does not preempt a county or municipality from enacting noncriminal sanctions for a violation of an ordinance or other violation, and it does not preempt a county, a municipality, or a public or private educational institution from creating its own model for a prearrest diversion program for adults. (100% verbatim)